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FREEPORT-McMoRAN ENERGY

Freeport-McMoRan Energy LLC
1615 Poydras Street
New Orleans, LA 70112

P. O. Box 61520
New Orleans, LA 70161

DEPT. OF TRANSPORTATION
DOCKETS

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David C. Landry
Vice President - General Manager

Telephone: 504-582-4880
Fax: 504-582-4339
Dave_Landry@fmi.com

July 2, 2004

Docket Management Facility
U.S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590-0001

**Re: Comments to Temporary Interim Rule of January 6, 2004
Coast Guard Docket Number USCG-1998-3884 - 25**

This responds to the "Notice of Temporary Rule with Request for Comments" published in the *Federal Register* of January 6, 2004 (69 FR 724). Freeport-McMoRan Energy LLC ("Freeport") is an LNG deepwater port license applicant whose Main Pass Energy HubTM application was deemed to "appear to contain the required information" in the *Federal Register* of June 9, 2004 (69 FR 32363). Freeport appreciates the opportunity to provide the following comment:

The 2-Year Limits on Use of Existing Geophysical ("Hydrographic") Data, in 33 CFR 148.105(m) ("Site Plan for Marine Components") and Existing Soil Data, in 33 CFR 148.105(n) ("Soil Data") Are Unreasonable.

A reconnaissance hydrographic survey of the proposed deepwater port site is required by 33 CFR 148.105(m)(2), however, "[t]he applicant may submit existing data, gathered within the previous 2 years, but it must be supplemented by field data for the specific locations in which a high degree of variability exists." Similarly, an "analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site," is required by 33 CFR 148.105(n). Here, too, however, "[t]he applicant may use existing data, so long as it was collected within the last 2 years and continues to provide accurate information about conditions throughout the site."

While the opportunity to submit existing data is appreciated, the limitation on the data that it be no more than 2 years old is unreasonable. License applications may, as in the case of Freeport's, be for sites that were previously subject to OCS oil & gas or sulphur & salt leases granted by the Minerals Management Service. The hydrographic survey data sought, consisting of "data on water depth, prevailing currents, cultural resources and general characterization of the sea bottom," and the soil data, which is an "analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site," include examples of such data.

There is no such 2-year limit on vintage of the data anywhere in the Deepwater Port Act, as amended—not in Section 5(f) of the Deepwater Port Act of 1974 (33 USC

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1504), as amended ("NEPA Compliance"), nor in Section 6 thereof (33 USC 1505), as amended ("Environmental Review Criteria"). It makes no sense for there to be such limit, because the hydrographic conditions and geologic formations that have taken decades to form, as well as historically significant archeological information, do not change in the course of a few years. This data does not lose its value after only 2 years, and there is an incentive to re-use whatever existing data there is because of the accelerated license application approval process. Additionally, the Minerals Management Service, in its regulations addressing re-use of such information (see especially 30 CFR 250.909—Foundation, but also 30 CFR 250.194—What Archaeological Reports and Surveys Must I Submit?, 30 CFR 250.203—Exploration Plan and 30 CFR 250.204—Development and Production Plan), does not limit such data to that which has been collected in the past 2 years.

The Deepwater Port Act of 1974 was amended to apply to deepwater gas ports by Section 106 ("Extension of the Deepwater Port Act to Natural Gas") of the Maritime Transportation Security Act of 2002. Pursuant to this amendment, the lead agency for application review, the Coast Guard, has less than one year to complete the license application approval process. The Coast Guard's review must, in accordance with Section 5(f) of the Deepwater Port Act, as amended (33 U.S.C. 1504(f)), include environmental review pursuant to the National Environmental Policy Act (NEPA). Where there is no compelling reason, as here, to require the collection of new data, it facilitates the Coast Guard's NEPA review to allow the agency to use existing data to the fullest extent possible.

We are available to answer questions and provide additional information if necessary. If you have any questions or require additional information, please contact Mr. John Seip at 504-582-4314.

Sincerely,



David C. Landry